

DEILY, MOONEY & GLASTETTER, LLP
8 Thurlow Terrace
Albany, New York 12203
(518) 436-0344
Martin A. Mooney, Esq. (MM 8333)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In Re:

SEASONS INDUSTRIAL
CONTRACTING,

Debtor.

**NOTICE OF MOTION FOR RELIEF
FROM AUTOMATIC STAY PURSUANT
TO 11 U.S.C. SECTION 362(d)(1)**

Case No. 11-10590-JMP
(Chapter 7)

SIRS:

PLEASE TAKE NOTICE that upon the Motion for Relief from Automatic Stay pursuant to 11 U.S.C. Section 362(d)(1), of secured creditor, Mercedes-Benz Financial Services USA LLC formerly known as DCFS USA LLC, dated March 2, 1011, the undersigned will move at a hearing to be held at the United States Bankruptcy Court, U.S. Courthouse, One Bowling Green, New York, New York on the 5th day of April, 2011 at 10:00 a.m. of that day, or as soon thereafter as counsel can be heard, for an Order, pursuant to 11 U.S.C. Section 362(d)(1), granting such creditor relief from automatic stay, or, in the alternative, directing the debtor, above-named, to immediately provide for the adequate protection of any property subject to the security interests of such creditor; and for such other and further relief as to the Court may seem just and proper.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 9006-1, Local Rules of Bankruptcy Practice for the Southern District of New York, answering papers and memoranda of law, if any, must be filed with the Court and served upon the undersigned so as to be received by the undersigned no later than seven (7) days before the return date of this motion.

DATED: March 2, 2011
Albany, New York

Yours, etc.

/s/ Martin A. Mooney
Martin A. Mooney, Esq.
DEILY, MOONEY & GLASTETTER, LLP
Attorneys for Creditor
Mercedes-Benz Financial Services USA LLC
formerly known as DCFS USA LLC
8 Thurlow Terrace
Albany, New York 12203-1006
Tel. (518) 436-0344

TO:

Deborah J. Piazza, Esq.
Attorney for Debtor
Abrams Fensterman, et. al.
630 Third Avenue, Fifth Floor
New York, NY 10017

Robert L. Geltzer, Esq. (Trustee)
1556 Third Avenue, Suite 505
New York, NY 10128

Office of the U.S. Trustee
33 Whitehall Street, 21st Floor
New York, NY 10004-2112

Seasons Industrial Contracting (Debtor)
27 Bruno Lane
Staten Island, NY 10307

Daniel Margiotta (Party in Interest)
Principal
Seasons Industrial Contracting
27 Bruno Lane
Staten Island, NY 10307

DEILY, MOONEY & GLASTETTER, LLP
8 Thurlow Terrace
Albany, New York 12203
(518) 436-0344
Martin A. Mooney, Esq. (MM 8333)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In Re:

SEASONS INDUSTRIAL
CONTRACTING,

Debtor.

**MOTION FOR RELIEF FROM
AUTOMATIC STAY PURSUANT
TO 11 U.S.C. SECTION 362(d)(1)**

Case No. 11-10590-JMP
(Chapter 7)

Mercedes-Benz Financial Services USA LLC formerly known as DCFS USA LLC, a secured creditor in the above-captioned bankruptcy case, by its counsel, DEILY, MOONEY & GLASTETTER, LLP, as and for a Motion for Relief from Automatic Stay pursuant to 11 U.S.C. Section 362(d)(1), or, in the alternative, for adequate protection, states the following as grounds therefor:

1. On February 14, 2011, the debtor, above-named, filed a voluntary petition in Bankruptcy under Title 11, Chapter 7, U.S.C., in the United States Bankruptcy Court, for the Southern District of New York.
2. The Court has jurisdiction to entertain this motion under 28 U.S.C. Section 157.
3. Mercedes-Benz Financial Services USA LLC formerly known as DCFS USA LLC (hereinafter "Mercedes-Benz") is a secured creditor herein and the holder of a duly perfected purchase

money security interest in one (1) 2008 Sterling Acterra (V.I.N. 2FZACFDU58AZ63314)

(hereinafter "collateral") owned by and, upon information and belief, in the possession and control of the debtor, above-named.

4. Pursuant to 11 U.S.C. Section 362, upon the commencement of the instant bankruptcy case, Mercedes-Benz is stayed from taking any action against the debtor to obtain possession of the collateral.

5. On August 20, 2008, the debtor entered into a Retail Installment Contract (hereinafter "Contract") with Meadowland Ford Truck Sales, Inc. (hereinafter "dealer") for the purchase of the collateral. Pursuant to the terms and conditions of the Contract, the dealer was granted a purchase money security interest in the collateral. Thereafter, the Contract, pursuant to its terms, was duly assigned by the dealer to Mercedes-Benz for good and valuable consideration. Mercedes-Benz is now the holder and owner of said Contract. A copy of the Contract and evidence of the recorded lien are collectively annexed hereto and referred to as Exhibit "A" and made a part hereof.

6. As of March 2, 2011, the debtor was in default of its payment obligations to Mercedes-Benz pursuant to the terms and conditions of the Contract as follows:

- a. Net balance due: \$36,828.36
- b. Pre-petition arrears: monthly payment of \$1,218.71 for the months of January and February, 2011, together with contractual late charges.

(NOTE: The foregoing does not represent any amount which may be due for costs and attorneys' fees as may be allowed by the Court.)

7. Mercedes-Benz has ascertained that the wholesale value of its security is THIRTY THOUSAND TWO HUNDRED SEVENTY-FIVE and 00/100 (\$30,275.00) DOLLARS based on estimated value of the collateral in average condition.

8. The debtor has failed to redeem the collateral pursuant to 11 U.S.C. Section 522 and has not reaffirmed its underlying obligation to Mercedes-Benz pursuant to 11 U.S.C. Section 524.

9. Upon information and belief, the debtor continues to enjoy the use and possession of the collateral.

10. It is respectfully asserted that Mercedes-Benz's interest in the collateral will not be adequately protected if the automatic stay is allowed to remain in effect.

11. Accordingly, sufficient cause exists to grant Mercedes-Benz relief from the automatic stay herein which includes, but is not limited to, the following:

a. The debtor is in default under the terms and conditions of the Retail Installment Contract.

b. The security interest of Mercedes-Benz with respect to the collateral is not adequately protected as envisioned under 11 U.S.C. Section 361.

c. The debtor does not possess an equity interest in the collateral.

d. The collateral is not necessary for an effective reorganization of a bankruptcy estate.

12. It is respectfully submitted that Mercedes-Benz is in a more advantageous position to obtain an optimum price for the sale of the collateral thereby increasing the possibility of generating a surplus for distribution to creditors of the estate.

13. Alternatively, in the event relief from automatic stay is not granted, then Mercedes-Benz respectfully requests that the Court compel the debtor to provide adequate protection to Mercedes-Benz (a) curing any default of payment obligations arising pursuant to the terms and

conditions of the Contract; (b) continuing to make payment in timely fashion thereunder, (c) maintaining adequate and continuous insurance coverage on the collateral, and (d) providing such other adequate protection as the Court may deem proper.

14. In the event this request for adequate protection is granted, and the debtor retains possession of the collateral, then Mercedes-Benz respectfully requests that it be entitled to the immediate possession of the collateral without further Court proceedings in the event of default by the debtor under any provisions for adequate protection which may be awarded herein.

15. No prior application for the relief requested herein has been made.

WHEREFORE, Mercedes-Benz Financial Services USA LLC formerly known as DCFS USA LLC respectfully requests that the Court issue an Order, pursuant to 11 U.S.C. Section 362 (a) granting Mercedes-Benz from automatic stay in order to obtain possession and dispose of its collateral, or, in the alternative, (b) directing the debtor to provide for the adequate protection of the security interest of Mercedes-Benz in the collateral as hereinabove requested, and for such other and further relief as to the Court may seem just and proper.

DATED: March 2, 2011
Albany, New York

MERCEDES-BENZ FINANCIAL SERVICES
USA LLC FORMERLY KNOWN AS DCFS
USA LLC
By Its Counsel

/s/ Martin A. Mooney
Martin A. Mooney, Esq.
DEILY, MOONEY & GLASTETTER, LLP
8 Thurlow Terrace
Albany, New York 12203-1006
Tel. (518) 436-0344